

OFFICIAL GAZETTE



GOVERNMENT OF GOA

NOTE: There is one Extraordinary issue to the Official Gazette, Series I No. 48 dated 25/2/93 as follows:

- 1) Extraordinary — dated 26/2/1993 from pages 405 to 406 regarding Notification from Department of Personnel.

GOVERNMENT OF GOA

Law (Legal and Legislative Affairs) Department

Notification

10-2-92/LA

The Indian Medical Council (Amendment) Ordinance, 1993 (No. 2 of 1993) which has been promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 2-1-1993, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 8th February, 1993.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd January, 1993/
Pausa 12, 1914 (Saka)

The Indian Medical Council (Amendment) Ordinance, 1993

No. 2 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Indian Medical Council Act, 1956.

Whereas the Indian Medical Council (Amendment) Ordinance, 1992, to provide for the aforesaid matter was promulgated by the President on the 27th day of August, 1992;

And whereas the Indian Medical Council (Amendment) Bill, 1992 to replace the said Ordinance has been passed by the Council of States and is pending in the House of the People;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. *Short title and commencement.* — (1) This Ordinance may be called the Indian Medical Council (Amendment) Ordinance, 1993.

(2) It shall be deemed to have come into force on the 27th day of August, 1992.

2. *Insertion of new sections 10A, 10B and 10C.* — After section 10 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely: —

‘10A. *Permission for establishment of new medical college, new course of study, etc.* — (1) Notwithstanding anything contained in this Act or any other law for the time being in force, —

(a) no person shall establish a medical college; or

(b) no medical college shall —

(i) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised medical qualification; or

(ii) increase its admission capacity in any course of study or training (including a post-graduate course of study or training), except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1. — For the purposes of this section “person” includes any University or a trust but does not include the Central Government.

Explanation 2. — For the purposes of this section, “admission capacity”, in relation to any course of study or training (including post-graduate course of study or training) in a medical college, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(2) (a) Every person or medical college shall, for purpose of obtaining permission under sub-section (1), submit to the Central Government

a scheme in accordance with the provisions of clause (b) and the Central Government shall refer the scheme to the Council for its recommendations.

(b) The scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(3) On receipt of a scheme by the Council under sub-section (2), the Council may obtain such other particulars as may be considered necessary by it from the person or the medical college concerned, and thereafter, it may, —

(a) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person or college concerned for making a written representation and it shall be open to such person or medical college to rectify the defects, if any, specified by the Council;

(b) consider the scheme, having regard to the factors referred to in sub-section (7), and submit the scheme together with its recommendations thereon to the Central Government.

(4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or college concerned, and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1):

Provided that no scheme shall be disapproved by the Central Government except after giving the person or college concerned a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person or medical college whose scheme has not been approved by the Central Government to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (1).

(5) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (1), no order passed by the Central Government has been communicated to the person or college submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and, accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(6) In computing the time-limit specified in sub-section (5), the time taken by the person or college concerned submitting the scheme, in furnishing any particulars called for by the Council, or by the Central Government, shall be excluded.

(7) The Council, while making its recommendations under clause (b) of sub-section (3) and the Central Government, while passing an order, either approving or disapproving the scheme

under sub-section (4), shall have due regard to the following factors, namely: —

(a) whether the proposed medical college or the existing medical college seeking to open a new or higher course of study or training would be in a position to offer the minimum standards of medical education as prescribed by the Council under section 19A or, as the case may be, under section 20 in the case of post-graduate medical education;

(b) whether the person seeking to establish a medical college or the existing medical college seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the medical college or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such medical college or course of study or training or as a result of the increased admission capacity, have been provided or would be provided within the time-limit specified in the scheme;

(e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such medical college or course of study or training by persons having the recognised medical qualifications;

(f) the requirement of manpower in the field of practice of medicine; and

(g) any other factors as may be prescribed.

(8) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person or college concerned.

10B. Non-recognition of medical qualifications in certain cases. — (1) Where any medical college is established except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college shall be a recognised medical qualification for the purposes of this Act.

(2) Where any medical college opens a new or higher course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college on the basis of such study or training shall be a recognised medical qualification for the purposes of this Act.

(3) Where any medical college increases its admission capacity in any course of study or training except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college on the basis of the increase in its admis-

sion capacity shall be a recognised medical qualification for the purposes of this Act.

Explanation. — For the purposes of this section, the criteria for identifying a student who has been granted a medical qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

10C. *Time for seeking permission for certain existing medical colleges, etc.* —

(1) If, after the 1st day of June, 1992 and on and before the commencement of the Indian Medical Council (Amendment) Ordinance, 1992 any person has established a medical college or any medical college has opened a new or higher course of study or training or increase the admission capacity, such person or medical college as the case may be, shall seek, within a period of one year from the commencement of the Indian Medical Council (Amendment) Ordinance, 1992, the permission of the Central Government in accordance with the provision of section 10A.

Ord. 13
of 1992.

(2) If any person or medical college, as the case may be, fails to seek the permission under sub-section (1), the provisions of section 10B shall apply, so far as may be as if, permission of the Central Government under section 10A has been refused.

3. *Amendment of section 33.* — In section 33 of the principal Act, after clause (f), the following clauses shall be inserted, namely: —

“(fa) the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (b) of sub-section (2) of section 10A;

(fb) any other factors under clause (g) of sub-section (7) of section 10A;

(fc) the criteria for identifying a student who has been granted a medical qualification referred to in the *Explanation* to sub-section (3) of section 10B.”.

4. *Repeal and saving.* — (1) The Indian Medical Council (Amendment) Ordinance, 1992 is hereby repealed.

Ord. 13
of 1992.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.